

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Kerstein	Team: APU	CCRB Case #: 201502519	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/26/2015 5:45 AM	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 8/26/2016	EO SOL 8/26/2016	
Date/Time CV Reported Fri, 04/03/2015 12:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 04/03/2015 12:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Marcin Drozniak	3463	938404	WARRSEC
2. DT3 Jose Dejesus	07401	901430	WARRSEC
3. DT3 Daniel Castillo	212	945566	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Daniel Castillo	Abuse: Det. Daniel Castillo entered and searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
B.DT3 Marcin Drozniak	Abuse: Det. Marcin Drozniak entered and searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
C.DT3 Jose Dejesus	Abuse: Det. Jose Dejesus entered and searched § 87(2)(b) in Staten Island.	§ 87(2)(b)
D.DT3 Daniel Castillo	Abuse: Det. Daniel Castillo damaged § 87(2)(b)s property.	§ 87(2)(b)

### **Case Summary**

On February 26, 2015, at approximately 5:45 a.m., Det. Daniel Castillo, Det. Marcin Drozniak and Det. Jose Dejesus entered and searched § 87(2)(b)'s apartment, located at § 87(2)(b) in Staten Island (**Allegations A, B and C**). As a result, § 87(2)(b) alleged that two locks on her front door and the handle to her balcony door were damaged (**Allegation D**). § 87(2)(b) was not arrested or issued a summons as a result of this incident.

### **Mediation, Civil and Criminal Histories**

As of May 20, 2015, § 87(2)(b) has not filed a Notice of Claim with regard to this incident (B.R. 01). This case was unsuitable for mediation. According to the NYPD's Booking and Arraignment Disposition system, § 87(2)(b) has never been arrested. Since a New York State Identification (NYSID) number was unable to be located for § 87(2)(b) a New York State Office of Court Administration (OCA) database search could not be conducted for her.

### **Civilian and Officer CCRB Histories**

- This is the first complaint filed by § 87(2)(b) (B.R. 02).
- Det. Dejesus, Det. Drozniak and Det. Castillo have been members of the service for 22, 9 and 7 years, respectively. Det. Drozniak has been the subject of 5 allegations stemming from 1 prior complaint, none of which were substantiated. Det. Castillo has been the subject of 5 allegations stemming from 2 prior complaints, none of which were substantiated. § 87(2)(g)
- Det. Dejesus has been the subject of 23 allegations stemming from 12 complaints, two of which were substantiated. The two allegations the Board has substantiated are summarized below (B.R. 04):
  - In CCRB# 200606685, § 87(2)(g) and the Board recommended Charges. The NYPD issued Command Discipline.
  - In CCRB# 201202895, § 87(2)(g) the Board recommended Charges. While the case was pending trial with the Administration Prosecution Unit (APU), Det. Dejesus pled nolo contendere on October 15, 2014, and received Instructions.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- Det. Drozniak, Det. Dejesus and Det. Castillo all acknowledged entering and searching § 87(2)(b)'s apartment. Therefore, an entry and search allegation has been pled against each officer.
- A property damage allegation has been pled against Det. Castillo since § 87(2)(b) identified him by name, accurately described him, and alleged that he damaged the locks to her front door and broke the handle off of her balcony door.

**Allegation A: Abuse of Authority – Det. Daniel Castillo entered and searched § 87(2)(b) in Staten Island.**

**Allegation B: Abuse of Authority – Det. Marcin Drozniak entered and searched § 87(2)(b) in Staten Island.**

**Allegation C: Abuse of Authority – Det. Jose Dejesus entered and searched § 87(2)(b) in Staten Island.**

It is undisputed that Det. Castillo, Det. Drozniak and Det. Dejesus entered § 87(2)(b) in Staten Island, with an arrest warrant for § 87(2)(b) and an I-Card for § 87(2)(b) both of whom were not inside of the location at the time of the entry (NYPD Doc. 01). It is also undisputed that the officers searched underneath and between two stacked couches, underneath the couch cushions, underneath and around the bed, and in the closets.

§ 87(2)(b) alleged that Det. Castillo pushed passed her and entered her apartment while holding a warrant and saying that he was looking for her nephew, § 87(2)(b). Det. Drozniak and Det. Dejesus entered the apartment shortly thereafter. The officers then proceeded to search her apartment in the aforementioned manner (See § 87(2)(b)'s CCRB Statement).

Det. Castillo stated that he had an open I-Card for § 87(2)(b) and was trying to locate him. A few weeks prior, he had gone to § 87(2)(b) home, located at § 87(2)(b) in Staten Island, where § 87(2)(b) reportedly resides with the victim in the open I-Card, who is his unnamed child's mother. The victim told Det. Castillo that § 87(2)(b) was staying with § 87(2)(b) at § 87(2)(b) § 87(2)(b) in Staten Island (See Det. Castillo's CCRB Statement).

Before going to the location, Det. Castillo conducted computer searches to get more information about § 87(2)(b) and § 87(2)(b) § 87(2)(b) in Staten Island, at which point he discovered that § 87(2)(b) a relative of § 87(2)(b) and § 87(2)(b) had an active arrest warrant (NYPD Doc. 02). The arrest warrant for § 87(2)(b) was from 2012 and contained § 87(2)(b)'s address. In addition, Det. Castillo conducted a DMV inquiry for § 87(2)(b) on February 20, 2015, which also listed his address as § 87(2)(b) § 87(2)(b) in Staten Island (NYPD Doc. 01). Although his license lists § 87(2)(b)'s address, there is no way to tell when the information was inputted and the detectives did not verify in any other way whether if § 87(2)(b) still resided at the location.

Det. Castillo noted that he has been assigned a dozen or so previous warrants for § 87(2)(b) and § 87(2)(b). Det. Castillo had not talked to § 87(2)(b) previously, was not sure if he had been to her apartment previously or whether he had found § 87(2)(b) or § 87(2)(b) at her apartment previously.

Det. Castillo, Det. Dejesus and Det. Drozniak went to § 87(2)(b)'s apartment. According to Det. Castillo, when she opened the door, he walked past her into the apartment and began to search. Det. Castillo denied that any conversation occurred. Det. Castillo admitted to looking between two stacked couches and underneath the couch cushions (See Det. Castillo's CCRB Statement).

Alternatively, Det. Drozniak and Det. Dejesus both stated that § 87(2)(b) gave them consent to enter and search the apartment (See Det. Dejesus and Det. Drozniak's CCRB Statements). Det. Drozniak stated that § 87(2)(b) opened the door and said, "Go ahead and look. He's not here." Det. Dejesus said that § 87(2)(b) backed up and told them to "come in." The officers admitted to looking underneath and around her bed and in her closets.

To effect the arrest of a defendant named in an arrest warrant, an officer may enter any premises in which he reasonably believes the defendant to be present. Before entering, the officer must give, or make reasonable effort to give notice of his authority and purpose to the occupants unless there is reasonable cause to believe that giving such notice will: (a) result in the defendant

escaping; (b) endanger the safety of the officer; or (c) result in the destruction of evidence. NYS Criminal Procedural Law, Section 120.80 (4) (B.R. 05).

The location mentioned on the arrest warrant does not transform the location into their residence for an indefinite duration, and standing alone, is not enough to establish that the individual named in the arrest warrant lives at the location or is present at the location at the time of entry. People v. Cabral, 147 Misc.2d 1000 (N.Y. Sup. Ct. 1990) (B.R. 05).

In Fakoya, the Secret Service concluded that an individual named in an arrest warrant lived at the location based on three pieces of evidence: 1) a recent database search 2) an undated tenant handbook which listed the defendant's brother as the tenant of the apartment in question and 3) interviews with building staff several months prior. The court found the evidence insufficient to establish a reasonable belief that the defendant resided at the location in question. People v. Fakoya, 25 Misc. 3d 1205(A) (N.Y. Sup. Ct. 2009) (B.R. 05)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(g)

**Allegation D: Abuse of Authority – Det. Daniel Castillo damaged § 87(2)(b)'s property.**

§ 87(2)(b) alleged that when she initially refused to open her door for the officers, Det. Castillo kicked her door and stuck an object between her door and the door frame. This

reportedly caused her front door knob and the cylinder on two of her front door locks to become loose. § 87(2)(b) also alleged that Det. Castillo pulled on her balcony's door handle repeatedly causing it to break off of the door (See § 87(2)(b)'s CCRB Statement).

§ 87(2)(b) provided photos of the damage to her front door and balcony door (B.R. 03). The photo of her front door shows a space between the door and the door frame. Although § 87(2)(b) stated that Det. Castillo broke the balcony door handle off of the door, she provided a photo that shows the handle still attached to the door and it is unclear whether there is any damage to it.

Det. Castillo denied ever trying to forcefully enter § 87(2)(b)'s apartment or that he ever stuck an object in between her door or door frame. Det. Dejesus and Det. Drozniak also denied that Det. Castillo ever forcefully entered the apartment and denied seeing him use any objects to try and open the door. Det. Castillo admitted to looking out of § 87(2)(b)'s balcony but denied ever trying to open her door (See Det. Castillo's statement). Det. Drozniak and Det. Dejesus denied witnessing this as well but they were most likely searching in § 87(2)(b)'s bedroom at the time, and therefore, would not have seen it had it occurred (See Det. Dejesus and Det. Drozniak's CCRB Statements).

§ 87(2)(b), § 87(2)(g)

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Pod: \_\_\_\_7\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print	Date
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Supervisor: \_\_\_\_\_

Title/Signature	Print	Date
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Reviewer: \_\_\_\_\_

Title/Signature	Print	Date
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Reviewer: \_\_\_\_\_

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